



**FAO-5465-2017 (O & M) &
FAO-6824-2017**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

235-2 cases.

1.

**FAO-5465-2017 (O & M)
Date of decision:30.01.2025**

THE ORIENTAL INSURANCE COMPANY LTD. ...APPELLANT

VS.

URMILA DEVI & ORS ...RESPONDENTS

2.

FAO-6824-2017

URMILA DEVI & ANR. ...APPELLANTS

VS.

STATE OF HARYANA & ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

**Present: Mr. Ram Avtar, Advocate
for the appellant in FAO-5465-2017 &
for respondent No.4 in FAO-6824-2017.**

**Mr. Sudhir Rana, Advocate
for respondents No.1 & 2 in FAO-5465-2017 &
for the appellants in FAO-6824-2017.**

**Mr. Rajbir Singh, DAG, Haryana,
for respondents No.3 & 4 in FAO-5465-2017 &
for respondents No.1 & 2 in FAO-6824-2017.**



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SUVIR SEHGAL, J.

1. This order shall dispose off both the above-noted appeals filed under Section 173 of the Motor Vehicles Act, 1988 (for brevity “MV Act”) by the insurance company and the claimants, as they arise out of same award passed by the Motor Accident Claims Tribunal, Panchkula, (for short “the Tribunal). For the sake of convenience, factual position is being taken from FAO-5465-2017 titled as “The Oriental Insurance Company Ltd. Vs. Urmila Devi and others”.

2. This appeal has been filed by the insurance company assailing award dated 10.04.2017 passed by the Tribunal, whereby a petition preferred by claimants/respondents No.1 & 2 for grant of compensation on account of death of Umesh Lal, has been partly accepted.

3. Facts, in brief, leading to the filing of the appeal, are that on 01.02.2016, Umesh Lal was travelling on a bicycle on Krishangarh-Panchkula road and his friend Abhishek was sitting on the carrier. A Haryana Roadways bus bearing registration No.HR-68-A-7890, which was being carelessly driven by Rakesh Kumar, came from the opposite side and struck the bicycle. Umesh Lal and his friend fell on the road and sustained multiple injuries. They were rushed to General Hospital, Sector-6, Panchkula, and then to PGI, Chandigarh, where Umesh Lal died due to the injuries sustained by him in the accident. An FIR No.17 dated 02.02.2016 was lodged under Sections 279, 337 and 304-A, IPC, at Police Station



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Chandimandir. Claimants filed a petition under the MV Act for grant of compensation on account of accidental death of Umesh Lal, which has been partly accepted vide the impugned award and they have been granted compensation of Rs.13,56,200/-. The owner, driver as well as the insurance company have been jointly and severally held liable to pay the compensation amount alongwith interest @ 7.5% p.a. from the date of filing of the claim petition.

4. Counsel for the appellant has argued that the Tribunal has erred in granting excessive amount of compensation. He asserts that the Tribunal has granted future prospects @ 50%, which deserves to be reduced. It is his assertion that the monthly income of the deceased has been wrongly assessed at Rs.7,600/- p.m. without any evidence. On the other hand, counsel for the claimants has sought enhancement of the compensation.

5. I have heard counsel for the parties and considered their respective submissions besides examining the paper-book with their able assistance.

6. On the basis of the evidence adduced by the parties, Tribunal has come to the conclusion that the accident took place on account of rash and negligent driving of Rakesh Kumar, which resulted in the death of Umesh Lal. There is no challenge to the findings recorded by the Tribunal under Issue No.1, which are affirmed. Tribunal has found that the driver of the offending vehicle was holding a valid driver's license, Ex.R1 and the vehicle was insured under insurance policies Ex.R2/Ex.R6.



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7. Urmila Devi (PW1) deposed that her son was employed in a call center and was drawing salary of Rs.10,000/- p.m., however, she was not able to produce any documentary evidence to support her assertion. Assuming the deceased to be an unskilled labourer, the Tribunal assumed his monthly income to be Rs.7,600/- on the basis of the notification issued by the Government under the Minimum Wages Act, 1948. The minimum wage notified by the Government of Haryana for the year 2016 for unskilled labour was Rs.7976.20/- p.m., which deserves to be rounded off to Rs.8000/- p.m. The deceased had two dependents, his widowed mother and a young unmarried sister. The dependency of $\frac{1}{2}$ applied by the Tribunal deserves to be accordingly reduced to $\frac{1}{3}^{\text{rd}}$. There is substance in the submission of counsel for the appellant that the future prospects deserve to be reduced. Claimants are entitled to future prospects @ 40% only instead of 50% in view of the judgment of the Supreme Court. The multiplier of 18 has correctly applied as the deceased was 20 years of age.

8. Following the guidelines laid down by the Supreme Court in *Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*, (2009) 6 SCC 121; *National Insurance Co. Ltd. Vs. Pranay Sethi*, (2017) 16 SCC 680 and *Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others*, (2018) 18 SCC 130, claimants are entitled to compensation, which has been computed as under:-



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Sr. No.	Heads	Compensation Awards
1	Annual Income	Rs.96000/- P.A. (8000 X 12)
2	Future prospects	Rs.38,400/- (40% of Rs.96,000/-)
3	Deduction towards personal expenditure 1/3	Rs.44,800/- (Rs.1,34,400/- X 1/3)
4	Total Monthly Income	Rs.89,600/- (Rs.1,34,400/ subtract Rs.44,800/-)
5	Multiplier	18
6	Annual dependency	Rs.16,12,800/- (Rs.89,600/- X 18)
7	Loss of Love and Affection	Rs.96,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of Estate	Rs.18,000/-
10	Total compensation	Rs.17,44,800/-
11	Less: Award by MACT	Rs.13,56,200/-
12	Enhancement	Rs.3,88,600/-

9. Accordingly, the claimants are found to be entitled to an additional compensation of Rs.3,88,600/- with interest @ 6% per annum from the date of the filing of the claim petition.

10. Appeals are disposed off.

11. As the main appeals have been decided, pending application(s), if any, is/are disposed off.

30.01.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No